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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,382	03/19/2004	Gary Lee Sturgill II	SS3375USNA	7243

23906 7590 06/22/2006

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WILMINGTON, DE 19805

EXAMINER
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BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/804,382

Applicant(s)

STURGILL, GARY LEE

Examiner

Jenna-Leigh Befumo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 13-37 and 42-45 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 38-41 and 46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response submitted on April 19, 2006, has been entered. The pending claims are 1 – 46. Claims 13 – 37 and 42 – 45 are withdrawn from consideration as being drawn to a nonelected invention.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1 – 5, 7 – 9, 38 – 41 and 46 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Druecke et al. (6,139,675) in view of Rudisill et al. (5,885,909) for the reasons of record.

4. Claims 1 – 5, 7 – 12, 38, 39, and 46 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Austin et al. (5,415,925) in view of Crenshaw et al. (4,588,457) and Strack et al. (5,681,645) for the reasons of record.

5. Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Druecke et al. and Rudisill et al. as applied to claim 1 above, and further in view of Pruett et al. (5,010,165) for the reasons of record.

6. Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Austin et al., Strack et al., and Crenshaw et al. as applied to claim 1 above, and further in view of Pruett et al. for the reasons of record.

### ***Response to Arguments***

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7. Applicant's arguments filed April 19, 2006 have been fully considered but they are not persuasive. The applicant argues that there is nothing in Rudisill to suggest that the subject nonwoven sheets should be bonded to other sheets with a water-based adhesive (response, page 2). However, the rejection relies on Rudisill as the secondary reference. Druecke, the primary reference, explicitly teaches using water-based adhesive to bond spunbond nonwoven fabrics to film layers. Thus, Rudisill does not need to teach using a water-based adhesive layer. Further, Rudisill does not teach that water-based adhesives cannot be used to bond the spunbond layer to additional layers.

Additionally, the applicant argues there is no motivation to combine the references (response, page 2). However, Druecke et al. discloses that the nonwoven material in the barrier composite fabric is a spunbond layer, but does not teach the specific spunbond layer structure. Rudisill is drawn to specific spunbond nonwoven materials with improved properties and related to barrier fabrics. Thus, it would have been obvious to one having ordinary skill in the art to choose known spunbond fabric layers, as taught by Rudisill, as the spunbond layer in Druecke based on its suitability for the intended use and the properties desired in the final product. Therefore, the rejection is maintained.

8. The applicant argues that there is no motivation to use the water-based adhesive taught by Crenshaw in the composite taught by Austin (response, page 3). However, as set forth in the previous Office Action, Austin discloses that adhesive can be used to combine the nonwoven layers, and that the adhesives should be tacky at room temperature (column 4, lines 45 – 60). Crenshaw is drawn to composites comprising spunbond layers which are bonded with water-based, polymeric adhesives, that are tacky at room temperature. Further, it has been held

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to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. Thus, it would have been obvious to one having ordinary skill in the art to substitute a known polymeric adhesive which is tacky at room temperature, as taught by Crenshaw, for the adhesive materials of the composite nonwoven taught by Druecke, to produce a bonded, composite fabric which remains flexible and soft after the adhesive is dried (column 5, line 1). Thus, the rejection is maintained.

Also, the applicant argues that Strack et al. only discloses fibers having a diameter of 10 to 20 microns (response, page 3). However, the reference is relied on for what it teaches as a whole which includes a teaching of that spunbond filaments can be made with a diameter of 7 microns and greater. Thus, the size claimed by the applicant is taught by Strack et al. Further, it would have been within the level of ordinary skill in the art to control the average fiber diameter by choosing to produce all fibers to be approximately the same size. Therefore, the rejection is maintained.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jenna-Leigh Befumo  
June 13, 2006